

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**KERRY LAYON LINZY, #1018197,**

**Petitioner,**

**v.**

**CIVIL ACTION NO. 2:23cv177**

**HAROLD W. CLARKE, Director,  
Virginia Department of Corrections,**

**Respondent.**

**FINAL ORDER**

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254 submitted by pro se Petitioner Kerry Layon Linzy. Petitioner challenges the calculation of his active sentence and his projected release date.

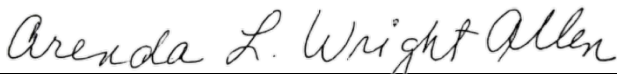
The matter was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. Because Linzy's claims are unexhausted and time-barred, and because his claims lack substantive merit in any case, the Magistrate Judge's Report and Recommendation filed December 15, 2023, recommends dismissal of the petition with prejudice. The Report and Recommendation advised each party of his right to object and the time limit for doing so. The court has received no objections, and the time for filing objections has now expired.

Accordingly, the court does hereby accept the findings and recommendations set forth in the Report and Recommendation filed December 15, 2023, and it is therefore **ORDERED** that Respondent's Motion to Dismiss (ECF No. 10) be **GRANTED**, and that Linzy's petition be **DENIED** and **DISMISSED with prejudice**.

Finding that the basis for dismissal of Petitioner's § 2254 petition is not debatable, and alternatively finding that Petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); see Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); Miller-El v. Cockrell, 537 U.S. 322, 335–38 (2003); Slack v. McDaniel, 529 U.S. 473, 483–85 (2000).

Petitioner is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. Rule App. Proc. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). **If Petitioner intends to seek a certificate of appealability from the Fourth Circuit, he must do so within thirty (30) days from the date of this Order. Petitioner may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.**

The Clerk is directed to mail a copy of this Final Order to Petitioner, and to provide an electronic copy of the Final Order to counsel of record for Respondent.

  
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ARENDA L. WRIGHT ALLEN  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia  
March 4, 2024